



**HUMAN RESOURCES OFFICE
TECHNICIAN / AGR ADMINISTRATIVE INSTRUCTION**

Number: 05-32

20 June 2005

**ADDITIONAL GUIDANCE FROM DEFENSE FINANCE and ACCOUNTING SERVICE
(DFAS) for
PROCESSING CLAIMS FOR ANNUAL LEAVE RESTORATION
UNDER BUTTERBAUGH v. DEPARTMENT OF JUSTICE**

1. In accordance with previous instructions addressed under TAAI 05-29 the following is an additional requirement when processing claims under Butterbaugh v. Department of Justice.
2. The Defense Finance and Accounting Service – Arlington released Procedures for Filing an Administrative Claim for technicians who can substantiate that they performed military duty and were charged military leave (DCPS Code LM) during the intervening weekends or non-workdays. The procedures and claim form are attached.
3. Under the Barring Act of 1940, a leave claim against the Government must be received within six years after the claim occurs. Technicians charged military leave for non-workdays may submit a written request (claim) for leave restoration through the Directorate for Human Resources. The burden of proof* supporting restoration of leave is on the technician and the following information **must** accompany each claim:
 - a. Memorandum through the Human Resources Office to DFAS requesting, documenting, and identifying period(s) claimed to include work schedule, leave type taken, and date of each non-work day and POC information with home address;
 - b. Identify current servicing payroll office;
 - c. Copy of orders for each period of performance claimed);
 - d. Certification of attendance;
 - e. Leave and earnings statements (LES) or other documentation indicating military leave was charged for non-workdays.
 - f. **Completed DFAS Claim Form**

*** Failure to provide the above documentation will result in your request being returned without action.**

4. Additional information can found at the Department of Labor's home page at www.dol.gov. Department of Defense guidance, see posting at Civilian Personnel Management Service (CPMS) web site www.cpms.osd.mil. For additional California National Guard information see TAAI 04-061 posted at: http://www.calguard.ca.gov/cahr/taai_04.html and <http://www.calguard.ca.gov/cahr/pubs/taai/05-29.pdf>.

5. If you need further assistance contact Lisa Nagata, Human Resources Specialist, at CAGNET 63601, DSN 466-3601 or (916) 854-3601.


STUART D. EWING
Captain, CA ANG
Deputy, Human Resources Officer

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PROCEDURES FOR FILING AN ADMINISTRATIVE CLAIM

Claimants must complete the claim format at attachment 2 and provide the information listed below. Claimants must show proof that they were harmed by the improper charging of military leave for Reserve duty on intervening weekends or nonworkdays. What does this mean to the claimant? Generally, each claimant must prove that annual leave or LWOP was charged for a period of active duty military orders due to the improper charge to military leave on an intervening weekend or nonworkday. How can that be proven? The claimant must submit a copy of the active duty military order(s) that first caused the erroneous charge to military leave and the follow-up active duty military order(s) that required the member to be charged annual or LWOP.

Appropriated fund employees of the Department of Defense or other agencies that are or were payrolled by the Defense Civilian Pay System (DCPS) who choose to seek restoration of annual leave (or former employees² who wish payment) for military leave charged for nonworkdays, may file an administrative claim with the Defense Finance and Accounting Service (DFAS) under the following rules. Such claims are subject to the Barring Act, found at 31 U.S.C. §3702, which provides that claims against the United States must be received by the Government within 6 years after the claim accrues. Only leave amounts that accrued within the 6 years preceding the filing of the claim with the Government may be restored or paid for under these procedures. Restoration of leave or alternatively payment under an administrative claim filed under these procedures will be a final settlement of all claims, no matter when they accrued, that current or former employees may have against the Government arising from military leave charged for nonworkdays. Restored annual leave under this claim must be used by the employee by the end of the leave year beginning within 2 years after the date of restoration or the leave will be forfeited, in accordance with 5 U.S.C. 6304(d)(1)(a) and 5 CFR 630.306.

Examples of the 6 year period for claims would be as follows:

Claim Filed	Audit Period
1999	Back to 1993
2000	Back to 1994
2001	Back to 1995
2002	Back to 1996
2003	Back to 1997
2004	Back to 1998
2005	Back to 1999

It should be noted that if a claimant requests restoration of military leave rather than annual leave the same information must be provided with the claim and proof of harm must still be shown. If loss of leave is proven, military leave will be restored to the claimant. Any restored military leave is subject to the maximum carry over of 30 days. Any adjustment of

² Former employees are those who have separated from government employment.

military leave that would cause the claimants balance to exceed the limits set by law would be forfeited.

All claims must be submitted to the DFAS payroll office(s) central post office box, where information is imaged and flowed to the appropriate payroll office for processing. The mailing address for DFAS (give name of payroll office) is, PO Box 33717, Pensacola, FL, 31508-3717. To help employees determine their servicing payroll office, they need to look at their current or former Leave and Earnings Statement and locate the payroll office identification (ID) number (POIN). A listing (attachment 3) will translate that POIN to the payroll office name. Former and current employees must provide the following documentation, a completed claim format (attachment 2), indicating the specific dates of active duty (FROM/TO) during which annual leave or LWOP was charged for nonworkdays or intervening weekends. Attach a copy of the order to active duty and a copy of the certificate of attendance for each period of active duty claimed. Former employees (still employed in the Federal government) who were payrolled by DCPS and intend to file a claim with DFAS must include a mailing address for their current payroll office. This address is required so that the DCPS payroll office(s) will be able to send a corrected Record of Leave Data (SF 1150) with the restored annual leave balance for recredit to you by your current payroll office. Note payroll offices will enter the restored annual leave amount in the Restored column under the Summary of Annual and Sick Leave heading and the date of the restored annual leave in block 24 remarks.

Upon receipt of the completed claim package, the servicing payroll office will audit the leave records against the sets of orders provided. Any erroneous charges to annual leave or LWOP will be adjusted and an amount of restored annual leave will be credited, if applicable, to the claimant's account if the claimant is still an employee of the Federal government. Restored annual leave under this claim must be used by the employee by the end of the leave year beginning within 2 years after the date of restoration or the leave will be forfeited, in accordance with 5 U.S.C. 6304(d)(1)(a) and 5 CFR 630.306.

If the claimant has separated or retired, a payment will be made to the claimant to settle the erroneous charges to annual leave or LWOP using the agency's current appropriations. All former employees must provide a current mailing address so the payment can be made to them.

If the audit finds that intervening weekends or nonworkdays did not result in charges to annual or LWOP, the claimants (current or former) will have no entitlement to restored leave or payment and the claim will be sent back to the current or former employee stating that there was no harm found for the period(s) of the claim.

CLAIM FORMAT

Administrative Claims for Annual Leave under *Butterbaugh v. Department of Justice*, 336 F.3d 1332
(Fed. Cir. 2003)
Appropriated fund employees

NAME _____ SSN _____ DATE _____

CURRENT MAILING ADDRESS (former employees only) _____

SERVICING PAYROLL OFFICE AND MAILING ADDRESS _____
(only claimants still employed by the Federal government, who were payrolled by DCPS during the claim period). A corrected SF 1150 will be sent to your current agency for credit to your restored leave account.

DFAS PAYROLL OFFICE (Specify Charleston, Pensacola, or Denver) _____

MAIL TO: PO Box 33717, Pensacola FL, 21508-3717 (See attachment 1 for translation of the Payroll Office Identification (ID) Number (POIN) shown on your Leave and Earnings Statement to your servicing payroll office)

REQUIRED INFORMATION FOR EACH PERIOD OF ACTIVE DUTY ORDERS:

ACTIVE DUTY DATES FROM: _____ TO: _____

ACTIVE DUTY DATES FROM: _____ TO: _____

ACTIVE DUTY DATES FROM: _____ TO: _____

REQUIRED SUPPORTING DOCUMENTATION (ATTACH TO CLAIM) – Claimant's must show that annual leave or LWOP was used in the performance of Reserve duties because the agency deducted military leave for non-workdays or intervening weekends.

- A copy of my order to military active duty for a continuous period of active duty that includes a weekend or nonworkday.
- A copy of my certificate of attendance for each period of active duty listed above.
- A copy of my applicable civilian work schedule (if it was not a standard Monday through Friday) for the period(s) of active duty listed above, showing nonworkdays.

ADDITIONAL INFORMATION (OPTIONAL)

- A copy of my leave and earnings statements that indicate charges to military leave which may include a weekend, nonworkday or a charge to leave without pay.

I understand and accept that filing this administrative claim means the following: All administrative claims against the Government must be received by the agency within 6 years after the claim accrues, under 31 U.S.C. §3702. Only leave amounts that accrued within the 6 years preceding the filing of the claim with the Government may be restored or paid for under these procedures. Restoration of leave or alternatively payment of an administrative claim filed under these procedures will be a final settlement of all claims, no matter when they accrued, that I may have against the Government arising from military leave charged for nonworkdays.

I further understand and accept that 1 day of restored annual leave will be given for each weekend day, nonworkday, or leave without pay (LWOP) charged during my continuous period of active duty. If the audit indicates no charges to annual leave or LWOP were made, then there is no entitlement to payment or restored annual leave. Current employee will receive restored annual leave for any erroneous changes of leave or LWOP; former employees will receive payment for erroneous changes of leave or LWOP. Any leave restored to my account must be used by the end of the leave year beginning within 2 years after the date of restoration or the leave will be forfeited, in accordance with 5 U.S.C. 6304(d)(1)(a) and 5 CFR 630.306.

SIGNATURE OF CLAIMANT _____ DATE SIGNED _____

PAYROLL OFFICE IDENTIFICATION (ID) NUMBER (POIN)

97380600	Charleston Payroll Office
97380700	Charleston Payroll Office
97381000	Charleston Payroll Office
97381100	Charleston Payroll Office
97381400	Charleston Payroll Office
97381500	Charleston Payroll Office
97300800	Denver Payroll Office
97380100	Pensacola Payroll Office
97380500	Pensacola Payroll Office
97381200	Pensacola Payroll Office